IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO : 12601 of 2005

Between:

Smt. Y. Prameela, W/o. Late Yadaiah Goud,
H.No. 4-8-599, Gowliguda, Hyderabad.

..... PETITIONER

AND

1 The Commissioner of Income Tax No. IV, Ayakar Bhavan,

Basheerbagh, Hyderabad.
2 The Assistant Commissioner of Income Tax, Circle 2 (3),

Hyderabad.
3 The Income Tax Officer, Ward - 5 (1), Hyderabad.
4 The Tax Recovery Officer-5, O/o. the Addl. /Jt. Commissioner of

Income Tax,Range-5, Church Building, Ramkot, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ or order or direction more particularly in the nature of Writ of Mandamus declaring the action of the 1st respondent in rejecting the petitioners waiver application filed under section 220 (2 A) of Income Tax Act dt. 7-10-2002 through his order dt. 3-2-2005 in file No. H. Qrs.4/220(2) 2002-03 as illegal, arbitrary without authority of law and contrary to the provisions of the Act and in violation of principles of natural justice and set aside the same and declare that the Petitioner is

entitled for adjustment of Rs.3,50,000/- recovered pursuant to sale of the immovable property of the petitioners husband in the year 1989 itself and the petitioner is entitled refund of the excess amount retained with the department together with interest till date and also declare that the Petitioner is liable for interest only on the outstanding tax arrears as per the orders of the Hon'ble ITAT and also declare that the Petitioner is not liable for any interest much less Rs. 1,15,151/- as claimed by the 2nd respondent dt. 14-12-1999 and any further interest for the subsequent periods and pass such other order or orders this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents: MR.J.V.PRASAD

(SC FOR INCOME TAX)

The Court made the following :

O R D E R (Per the Hon'ble Sri Bilal Nazki, ACJ):

Issue notice. Sri J.V.Prasad, learned counsel for the respondents takes notice.

With the agreement of learned counsel for the parties, this matter is disposed of at this stage as it is admitted that the impugned order has not given any reasons.

It appears that the petitioner had moved an application seeking waiver of interest under Section 220 (2A) of the Income Tax Act. The application was kept pending for three years and after that on 03-02-2005, the following order was communicated to the petitioner.

> *"With reference to your petition dated 07-10-2002 requesting for waiver of interest u/s. 220 (2A) for the AY 1969-70 to AY 1985-86 in the case of Sri Y.Yadaiah Goud, you are hereby informed that after due consideration of the facts of the case, the petition is rejected."*

The order does not disclose any reasons for rejecting the application. As such, the order impugned is quashed and the respondents are directed to pass fresh orders after hearing the petitioner and give reasons. Pending disposal of the application, the respondents are directed not to take any coercive steps against the petitioner.

The writ petition is accordingly allowed. No order as to costs.

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(Bilal Nazki, ACJ)

22nd June, 2005

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(G.Chandraiah,J)

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Note:Issue C.C in one week

(b/o)

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To

1 The Commissioner of Income Tax No. IV, Ayakar Bhavan,

Basheerbagh, Hyderabad.
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5 Two C.D copies.